

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

JIM HARRIS, JR.,

Plaintiff,

v.

CORIZON MEDICAL SERVICES, et al.,

Defendants.

No. 1:13-CV-147 SNLJ

MEMORANDUM AND ORDER

This closed case is before the Court on a letter from self-represented plaintiff Jim Harris, Jr. seeking an Order from the Court directing the Missouri Department of Corrections to stop taking funds from his prison account to pay filing fees for this matter, and to reimburse him for funds already deducted. ECF No. 50 at 2. The Court construes this letter as a motion for reimbursement, and for the reasons discussed below, this motion will be denied.

Case Background

Plaintiff filed his complaint *pro se* in this matter on October 3, 2013. ECF No. 1. After plaintiff filed an amended complaint on a court-provided form (ECF No. 3), the Court granted plaintiff's motion for appointment of counsel (ECF No. 8) and appointed him Pro Bono Counsel in this matter. ECF No. 11. On January 23, 2014, the Court granted plaintiff's motion for leave to commence this action without prepayment of the required filing fee (ECF No. 4) and accessed an initial partial filing fee amount of \$23.28. ECF No. 10. In that Order the Court stated:

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account, or (2)

the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. *Id.*

ECF No. 10 at 1-2.

On January 15, 2015, plaintiff (through his appointed counsel) filed a motion for voluntary dismissal of this matter "without prejudice, each party to bear its own costs." ECF No. 44. The Court granted the motion on January 20, 2015 and dismissed the case. ECF No. 46.

Motion Argument

Plaintiff now seeks an Order directing that funds stop being withdrawn from his prison account to pay the filing fee in this matter, and that funds already deducted be returned to him.

ECF No. 50 at 2. In relation to this matter, plaintiff states in his motion:

In 1:13-CV-147-LMB, this court granted appointment of counsel, and only ordered Plaintiff to pay initial filing fee of \$23.28, it further Ordered that Plaintiff's Motion for extension of case until receipt of the account statement [Doc.#6] is DENIED AS MOOT. (A legal claim that is no longer relevant and must be dismissed.) See Doc. #:11 filed :-1/29/14. This district court never ordered the agency having custody of Plaintiff to pay or withhold 20% of his monthly account balance from his prison account. Furthermore, see Doc. #:44, 01/15, and Doc. #:46, case No. 1:13-CV-00147-SNLJ, Motion for Voluntary Dismissal.

Plaintiff dismissed this case voluntarily. See Rule 41(d)(1), this district court granted Motion to Voluntary Dismissal.

Id. at 1-2.

Discussion

Under the Prisoner Litigation Reform Act ("PLRA"), "if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner *shall* be required to pay the full amount of a filing fee." 28 U.S.C. § 1915(b)(1) (emphasis added). "[N]othing allows the court to stop the

collection of the filing fee once [it] authorize[s] a prisoner to proceed in forma pauperis [under 28 U.S.C. § 1915]. *Copley v. Henderson*, 980 F.Supp. 322, 323 (D. Neb. 1997). “Thus, prisoners should understand that from the moment we allow them to proceed in forma pauperis, they owe the United States of America the full filing fee, and this is true even if they voluntarily dismiss their cases.” *Id.* Because the Court granted plaintiff’s application to proceed in forma pauperis in this case, the PLRA requires that plaintiff pay the full filing fee.

As detailed in the Order issued by the Court granting in forma pauperis status to plaintiff, 28 U.S.C. § 1915(b)(2) sets forth the requirements for prisoner installment payments under the PLRA:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

In this action, plaintiff was assessed an initial partial filing fee of \$23.28 on January 29, 2014. ECF No. 11. On February 25, 2014, the Court received a payment in the amount of \$24.00 from the plaintiff for the filing fee. On March 20, 2014, the Court sent plaintiff’s custody, the Missouri Department of Corrections, a letter instructing them on them on how further payments should be made until the filing fee is paid in full. ECF No. 14. An additional payment towards the filing fee in the amount of \$12.81 was received by the Court on June 1, 2020.

Plaintiff’s voluntary dismissal of this action does not excuse or negate his obligation to pay the filing fee in full. The Court did order the agency having custody of plaintiff to pay or withhold 20% of his monthly account balance from his prison account (ECF No. 10) and sent a letter to the custody detailing this (ECF No. 14). Furthermore,

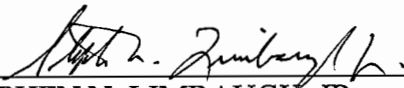
plaintiff has not submitted a prison account statement or made any argument demonstrating that he lacks the funds to pay the filing fees in this instance. For all these reasons, the plaintiff's motion will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for an Order from the Court directing the Missouri Department of Corrections to stop taking funds from his prison account to pay filing fees for this matter, and to reimburse him for funds already deducted [ECF No. 50] is **DENIED**.

IT IS FURTHER ORDERED that an appeal of this Order would not be taken in good faith.

Dated this 23rd day of June, 2020.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE